

1 JUDGE SIPPEL: You're totally out
2 of contract, and the decision -- through this
3 process that you've explained, CSNMA, your
4 affiliate, your in-house affiliate, your
5 integrated affiliate, and the company,
6 corporate, decides that it's okay to drop it
7 out of the high tier, because it would be
8 consistent with this other -- with other
9 decisions that were made for similar -- for
10 entities that were similarly situated. Is
11 that basically right, except that they weren't
12 internally affiliated.

13 THE WITNESS: Right. This -

14 JUDGE SIPPEL: Was that the game
15 plan? I mean, this was not a big deal.

16 THE WITNESS: It wasn't a big
17 deal. CSNMA basically said we have, like most
18 RSNs, like MASN -

19 JUDGE SIPPEL: Well, I got the
20 impression that that was being pointed to, but
21 maybe it's not you, but other testimony in
22 this case, that showed that CSNMA was an

1 independent entity, and was operating the same
2 way that MASN was operating. And I don't see
3 that. I don't see that at all. MASN could
4 never come in and get -- if MASN had been put
5 up on a sports tier, and the contract expired,
6 they wouldn't be approaching corporate Comcast
7 the same way as CSNMA was. You're not
8 involved in that process.

9 THE WITNESS: Well, I, actually
10 don't think it's that different. CSNMA said,
11 and MASN could have done this, too, if we were
12 out of contract with MASN, if we had the same
13 exact circumstance.

14 JUDGE SIPPEL: Right.

15 THE WITNESS: And MASN had this
16 legacy contract in Harrisburg that allowed it
17 to be on the sports tier, and they came in and
18 said that contract is expired. We're not
19 going to let you continue to carry it on the
20 sports tier, I think it would have had the
21 same progression. The cable company would
22 have said we don't think it's worth it to

1 carry it on expanded basic. We liked it on
2 the sports tier. We don't want to carry it on
3 expanded basic at that price, so we're not
4 going to carry it anymore.

5 JUDGE SIPPEL: So, goodbye.

6 THE WITNESS: So, goodbye.

7 JUDGE SIPPEL: That's not going to
8 happen with CSNMA, though.

9 THE WITNESS: That is what
10 happened with CSNMA, because they said the
11 exact same thing. They said we're not going
12 to let you carry it on the sports tier
13 anymore. The cable company said we'd like to
14 carry it on the sports tier. CSNMA said we're
15 not going to allow that. We only permit
16 expanded basic distribution, which would be
17 the same thing that MASN would say. And, so,
18 the cable company, as it relates to
19 Harrisburg, really had two choices. They
20 could either move it to expanded basic.

21 JUDGE SIPPEL: Right.

22 THE WITNESS: Which would entail a

1 very significant cost, or they could drop it.

2 JUDGE SIPPEL: And they decided to
3 drop it.

4 THE WITNESS: And they decided to
5 drop it. So, it really -

6 JUDGE SIPPEL: But CSNMA is still
7 part of the family.

8 THE WITNESS: Yes.

9 JUDGE SIPPEL: MASN wouldn't be in
10 that relationship. MASN would be out.

11 THE WITNESS: No, but if that same
12 fact situation happened with MASN, I think it
13 would have occurred exactly the same.

14 JUDGE SIPPEL: Well, it couldn't -
15 - the decision couldn't be made the same way,
16 because you had different procedures. You've
17 got different processes going for each one.

18 THE WITNESS: No, actually the
19 process would have been the same.

20 MR. TOLLIN: Your Honor, can I
21 interrupt?

22 JUDGE SIPPEL: Yes, I'm sorry.

1 MR. TOLLIN: We're only here
2 talking about Harrisburg. We're not talking-

3 JUDGE SIPPEL: I know. Harrisburg
4 is pretty important, I understand.

5 MR. TOLLIN: No, no. I'm not
6 saying it isn't important, but I -- this isn't
7 a matter of being dropped out of the corporate
8 family. That wasn't the issue. The issue was
9 carriage -- CSNMA wanted carriage on expanded
10 basic, exactly like MASN is asking for
11 expanded basic. They wouldn't take sports
12 tier carriage, either. And, when CSNMA, which
13 is a separate unit, asked for carriage on the
14 expanded basic, the other half of the company
15 is saying we don't want to spend the money on
16 that. See you later. You're not in Harrisburg
17 anymore. I mean, there just was no meeting of
18 the minds in Harrisburg.

19 JUDGE SIPPEL: Wait a minute.
20 That wasn't -- I don't see it that way, as a
21 meeting of the minds. There was a corporate
22 decision on a cost basis, you're out of there.

1 Let's keep doing -- let's move on to the next
 2 subject, you know. I mean, it's not the same
 3 thing as deciding that MASN, no, we're not
 4 going to do business with you anymore, because
 5 you want to come down off of that tier. We're
 6 not going to put you down off of that -- at
 7 the price that you're offering. Now, price
 8 always seems to be the factor. If MASN says
 9 that I'll pay you X number of dollars over and
 10 above what we were -- if we move our bid up,
 11 how -- Comcast, how much do you want to get us
 12 the hell off of that one, and put us on the
 13 broader tier?

14 MR. TOLLIN: I think what he's
 15 saying is if MASN were in exactly the same
 16 position on the sports tier -

17 MR. FREDERICK: Let him testify,
 18 Your Honor. That's why he's here.

19 JUDGE SIPPEL: Yes. Either that,
 20 or we should excuse the witness.

21 MR. FREDERICK: We can move on to
 22 another topic.

1 MR. TOLLIN: No, I think this is
2 pretty important.

3 MR. FREDERICK: I'd rather hear
4 Mr. Bond testify than Mr. Tollin.

5 JUDGE SIPPEL: I started it, so
6 I've got to finish it. Now, I agree it's very
7 important. I think it is very important. But
8 it's true, that the witness should be telling
9 me this. And I'm not getting it from the
10 witness. I mean, I'm getting, in bits and
11 pieces I am, but I'm not getting the whole
12 thing.

13 MR. FREDERICK: Maybe I could ask
14 just a couple of questions.

15 JUDGE SIPPEL: Let me ask Mr.
16 Frederick to develop this a little further.
17 I'm tired, anyway.

18 BY MR. FREDERICK:

19 Q Mr. Bond, if there was a
20 disagreement between Comcast Cable and CSNMA
21 over how it should be carried, Mr. Burke would
22 resolve that dispute, would he not?

1 A Presumably.

2 Q Okay. And if there was a
3 disagreement with Mr. Burke's decision,
4 presumably, the unhappy party could appeal to
5 the Chairman of the company, Mr. Brian
6 Roberts. Correct?

7 A Yes.

8 Q And Mr. Brian Roberts would decide
9 how CSNMA was to be carried. Correct?

10 A Yes.

11 Q Can we talk about demand studies
12 now for MASN's programming. You're not
13 involved in performing analysis of the demand
14 for CSNMA. Correct?

15 A Yes.

16 Q You're not aware of any study done
17 to analyze demand for CSNMA. Correct?

18 A Yes.

19 Q You don't look at ratings for
20 CSNMA. Correct?

21 A Yes.

22 Q You don't commission studies of

1 any merchandise for teams telecast by CSNMA.

2 Correct?

3 A Yes.

4 Q Your group did not assess the
5 teams won-loss record in determining whether
6 to carry CSNMA. Correct?

7 A Yes.

8 Q You did not commission any studies
9 with respect to the demand for MASN in the
10 period before August 2006. Correct?

11 A Yes.

12 Q You don't analyze customer demand
13 on an annual basis. Correct?

14 A Yes.

15 Q You don't analyze customer demand
16 on a biannual basis. Correct?

17 A Yes.

18 Q You don't analyze customer demand
19 every four years. Correct?

20 A Yes.

21 Q You don't analyze customer demand
22 every ten years. Correct?

1 A Yes.

2 Q In the summer of 2006, you did not
3 do any kind of an assessment of demand for
4 MASN in systems on the periphery of MASN's
5 television territory. Correct?

6 A Yes.

7 Q You relied -

8 MR. TOLLIN: Your Honor, I object.
9 This is not going to a clarification of the
10 issue of whether or not CSN was being dropped
11 by Comcast, or by CSNMA.

12 MR. FREDERICK: Your Honor, he
13 gets to redirect him.

14 JUDGE SIPPEL: I'm going to
15 overrule the objection. I think that -

16 MR. FREDERICK: He agreed with
17 every proposition that I put forth.

18 JUDGE SIPPEL: Yes. These are
19 indicia of just what we're getting at.

20 BY MR. FREDERICK:

21 Q So, you relied on Mr. Ortman to
22 put together the list. Correct?

1 A The system list?

2 Q Yes.

3 A Yes.

4 Q And your testimony is that Mr.

5 Ortman chose which Comcast systems would not

6 be watching MASN.

7 A Yes.

8 Q You didn't speak to him directly.

9 A Yes.

10 Q You didn't -

11 JUDGE SIPPEL: Yes or no, you did

12 speak to him?

13 THE WITNESS: Correct. I did not

14 speak to him.

15 BY MR. FREDERICK:

16 Q And you didn't give him any email

17 instructions for how to construct the list of

18 unlaunched versus launched systems. Correct?

19 A No, I didn't give him an email

20 instruction. I did work with my team a little

21 on developing a proposal to MASN.

22 Q We'll get to that in a moment.

1 A Okay.

2 Q Before deciding to carve off
3 systems on the periphery, you did not analyze
4 whether CSNMA was being carried on those
5 peripheral systems. Correct?

6 A Yes.

7 Q And you're not aware of anyone in
8 your group analyzing whether CSNMA was, in
9 fact, being carried on those same peripheral
10 systems. Correct?

11 A Yes.

12 Q You didn't view it as relevant
13 whether a Comcast Sports Net was carried on
14 systems that you chose to carve off from
15 MASN's launch. Correct?

16 A Yes.

17 Q So, if Mr. Ortman testifies that
18 he took CSNMA's coverage into account, he'd
19 just be wrong about the relevance of CSNMA's
20 distribution footprint. Correct?

21 A I don't follow that. I think your
22 question was, did I take CSNMA into account.

1 Q And your testimony is -

2 A I didn't.

3 Q No. And you're the final decision
4 maker. Correct?

5 A Well, I was looking to Mike to
6 help me craft the proffer and the deal to go
7 back to MASN with, so he was, obviously, an
8 important part of it. But I was there to
9 negotiate the deal.

10 Q But if you disagreed with Mr.
11 Ortman's suggestion, you have the power to
12 overrule him. Correct?

13 A Yes.

14 Q And, in fact, you did overrule
15 him. Correct?

16 A In that negotiation?

17 Q Yes.

18 A Yes, I pushed him to give MASN
19 more systems.

20 Q Correct. He wanted to carve it off
21 even more. Correct?

22 A Yes. Correct.

1 Q He wanted to limit how much MASN
2 could be launched. Correct?

3 A Yes.

4 Q And you told Mr. Ortman, come back
5 and give me more MASN subscribers. Correct?

6 A For the committed systems.

7 Q Yes.

8 A All the systems were covered under
9 the discretion clause, but with respect to the
10 committed systems, you're correct.

11 Q Correct. So, when Mr. Ortman says
12 only 1.5 million subs, you say that's too
13 restrictive. Correct?

14 A Yes.

15 Q You say to Mr. Ortman, go back and
16 give me some more systems for a little bit
17 more launch. Correct?

18 A Yes.

19 Q Is it true that in the areas that
20 are not launched in the MASN deal, Comcast
21 distributes CSNMA?

22 A I'm sorry. Can you repeat the

1 question?

2 Q Is it true that in the areas and
3 systems not launched in the MASN deal, Comcast
4 distributes CSNMA?

5 A Yes, in some of the systems.

6 Q In most of the systems?

7 A Yes, not in Harrisburg.

8 Q In virtually all of the systems.

9 A I think in all of the systems,
10 except for Harrisburg.

11 Q And, in Harrisburg, Comcast
12 distributes CSN Philadelphia. Correct?

13 A Yes.

14 Q Is it a fact that in all but three
15 systems in Comcast's footprint covered by
16 MASN, Comcast distributes either CSN Philly,
17 or CSNMA?

18 A I don't have the exact system
19 list, Mr. Frederick, or system comparison, so
20 I can't answer that question precisely.

21 Q Is it true that in every term
22 sheet sent to you by MASN between April 2005

1 and August the 2nd, 2006, MASN requested
2 coverage of all Comcast systems to be
3 launched?

4 A Yes.

5 MR. FREDERICK: Okay. I want to
6 move to a different topic.

7 JUDGE SIPPEL: You know what I
8 think this record needs, is it needs some kind
9 of a definitive - not necessarily in
10 testimonial form, but may be with a
11 declaration - a definitive statement of
12 systems or something like that, and go down
13 each one of these individually, which one of
14 them did MASN get, which one of them does
15 CSNMA continue to, what do you say, program
16 with, or something. And then go through each
17 one of them that way, and then include the
18 ones that CSNMA, and that are being denied to
19 MASN. For example, Harrisburg. I mean, I can
20 -- the Tri-State areas, Roanoke.

21 MR. FREDERICK: Your Honor, that
22 information is in the record, but it -

1 JUDGE SIPPEL: And the number of
2 subscribers in each of those -- go ahead. You
3 tell me.

4 MR. FREDERICK: There is a chart
5 prepared by Mr. Mark Wyche attached to his
6 direct testimony that I believe is MASN
7 Exhibit 70. Is that right? 71. That shows
8 all the unlaunched systems. Okay?

9 JUDGE SIPPEL: Going both ways,
10 MASN and CSNMA, and Philly, too.

11 MR. FREDERICK: No, the Orszag
12 Attachment Four that we went through with Mr.
13 Ortman yesterday.

14 JUDGE SIPPEL: Right.

15 MR. FREDERICK: That has all of
16 the CSN Philly systems, all of the MASN
17 systems, and all of the CSNMA systems.

18 JUDGE SIPPEL: Well, what about
19 the ones in Roanoke? I mean, you said -- if
20 I heard the testimony here, that in this --
21 this is MASN, I'm looking at MASN Exhibit
22 239. That's the footprint, and within that

1 footprint, even though MASN has the majority
2 of the -- you're permitted, or you're
3 authorized, rather, to -- you've been launched
4 in the majority of all those areas, the fact
5 of the matter is CSNMA and/or Philly is still
6 operating in those same areas.

7 MR. FREDERICK: Correct. And,
8 Your Honor -

9 JUDGE SIPPEL: How many
10 subscribers does each one get?

11 MR. FREDERICK: We have all that
12 information in the record.

13 JUDGE SIPPEL: Okay. All right.

14 MR. FREDERICK: We have -- if I
15 can just take a minute. Mr. Bond, I apologize
16 for interrupting your testimony.

17 Your Honor, Mr. Wyche has prepared
18 a table of all the unlaunched systems. He has
19 not signed a protective order, and thereby
20 been restricted for working in this industry
21 for a year, and so he has not obtained access
22 to the highly confidential material. What

1 you're requesting requires a simple comparison
2 of Mr. Orszag's Attachment Four and Mr.
3 Wyche's attachment, and we would be happy to
4 prepare a table that would synthesize those
5 two pieces of information.

6 JUDGE SIPPEL: Yes. And make it
7 very clear.

8 MR. FREDERICK: Because that
9 information is in the record.

10 JUDGE SIPPEL: Including number of
11 subscribers.

12 MR. FREDERICK: That's correct.
13 And we can do that -

14 JUDGE SIPPEL: With Comcast,
15 obviously.

16 MR. FREDERICK: Certainly. We
17 would share it with counsel, and we can make
18 it a joint submission.

19 MR. TOLLIN: Yesterday, you did
20 not share the list, the Wyche list with Mr.
21 Ortman, who would have been able to go through
22 the list and tell you exactly what the right

1 sub numbers are, and everything, so we want to
2 be able to consult with Mr. Ortman.

3 JUDGE SIPPEL: Sure. Anybody you
4 want to, but let's get the thing as a joint
5 submission. Have it identified the right way
6 on the top, and make sure that it's signed by
7 both sides as a declaration.

8 MR. FREDERICK: We'll prepare
9 that, Your Honor.

10 JUDGE SIPPEL: I'm not saying
11 you're going to take it over. It's going to
12 be a joint -

13 MR. FREDERICK: No, we will
14 prepare that and Mr. -

15 JUDGE SIPPEL: Sure.

16 MR. FREDERICK: We've worked
17 cooperatively throughout this process.

18 MR. TOLLIN: Absolutely. We'll
19 work together on this.

20 JUDGE SIPPEL: Why do I spend so
21 much time on objections?

22 (Laughter.)

1 MR. FREDERICK: Mr. Tollin ate his
2 Wheaties this morning.

3 JUDGE SIPPEL: All right. We'll
4 turn Mr. Kim on him, and then we'll really
5 have a -

6 MR. FREDERICK: That's this
7 afternoon, Your Honor. Your pre-opera
8 appetizer is Mr. Kim.

9 JUDGE SIPPEL: Oh, boy.

10 MR. KIM: I should lower
11 expectations at this point, Your Honor.

12 JUDGE SIPPEL: Can I trust that?

13 MR. KIM: Yes, sir.

14 (Laughter.)

15 JUDGE SIPPEL: I'm sorry. I'm
16 trying to get -

17 MR. FREDERICK: We're going to
18 move to a new topic.

19 JUDGE SIPPEL: -- work done here,
20 and we're off the topic. Thank you. Thank
21 you. Thank you for your patience, Mr. Bond.

22 BY MR. FREDERICK:

1 Q Mr. Bond, you stated in your
2 deposition that you wanted MASN to succeed.
3 Correct?

4 A Yes.

5 Q You're aware that Comcast sent out
6 a notice to its subscribers in September 2006
7 of a rate increase. Correct?

8 A Yes.

9 Q And that notice blamed MASN for
10 the rate increase. Correct?

11 A Yes.

12 Q Public disparagement is not
13 consistent with wanting MASN to succeed.
14 Correct?

15 A I didn't consider that public
16 disparagement.

17 Q Comcast Sports Net, from time to
18 time, increases its rates. Correct?

19 A Yes.

20 Q Has Comcast Sports Net Mid-
21 Atlantic raised its rates since 2004?

22 A Not to the degree of this cost

1 increase.

2 Q Has it increased its rates -

3 A Yes, it has.

4 Q [REDACTED]

5 [REDACTED]

6 A [REDACTED].

7 Q And Comcast has not disparaged
8 CSNMA for the increase in its rates. Correct?

9 A No.

10 Q In fact, you can't think of any
11 other example in which Comcast blamed a
12 particular network for a rate increase.
13 Correct?

14 A Yes.

15 Q I want to ask about the
16 relationship between Comcast and CSNMA, and
17 CSN Philly, and the supposed arm's length
18 relationship there, if I may. Comcast also
19 wants CSNMA to succeed. Correct?

20 A Yes.

21 Q Comcast wants CSN Philly to
22 succeed. Correct?

1 A Yes.

2 Q It's good for Comcast if CSN

3 Philly generates profits. Correct?

4 A Yes.

5 Q It's good for Comcast if CSNMA

6 generates profits. Correct?

7 A Yes.

8 Q And part of that success is for

9 Comcast personnel to have a good relationship
10 with CSN personnel. Correct?

11 A Yes.

12 Q You have a good relationship with

13 Jeff Shell, don't you?

14 A I do.

15 Q He's the head of the programming

16 arm for Comcast. Correct?

17 A Yes.

18 Q His group manages Comcast's

19 affiliated RSNs. Correct?

20 A Yes.

21 Q His group manages the Comcast's

22 Sports Net properties. Correct?

1 A Yes.

2 Q Shell's group manages CSNMA.

3 Correct?

4 A Yes.

5 Q His group manages CSN Philly.

6 Correct?

7 A Yes.

8 Q He works on the 19th floor of the

9 Comcast building. Correct?

10 A Yes.

11 Q You work on the 52nd floor of the

12 Comcast building. Correct?

13 A I do.

14 Q So, if you want to negotiate with

15 Mr. Shell, you just get in the elevator.

16 Correct?

17 A Yes.

18 Q If you wanted to have a contract

19 with Mr. Shell, you just get in the elevator

20 and go down and talk to him. Correct?

21 A Yes.

22 Q [REDACTED]